REMARKS

1. **Information Disclosure Statement**

The office action states that the information disclosure statement filed by the applicants on June 9, 2011 failed to comply with 37 C.F.R. § 1.98(a)(2) because a copy of JP 2860795 was not included. The applicants respectfully submit that an English version of the reference was submitted along with the information disclosure statement in the form of Japanese Publication No. 03-095869. The applicants apologize for any confusion caused as a result of the abstract failing to reference the corresponding Japanese patent number.

2. **35 U.S.C. §103(a) Rejections**

Claims 26, 29, 30, and 33-37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Pub. No. 2003/0134171 to Sarkar *et al.* (the "Sarkar reference"). Upon review of the Sarkar reference, the applicants respectfully submit that the Sarkar reference is not valid prior art under relevant section of 35 U.S.C. § 102.

For a reference to qualify as a valid prior art under 35 U.S.C. § 102(b), it must have been published more than one year prior to the filing date of the present application. In this case, the Sarkar reference was filed on July 25, 2002 and subsequently published on July 17, 2003. However, the present application has an effective filing date of July 1, 2004 which is less than one year from the publication date of the Sarkar reference. The applicants therefore respectfully submit that the Sarkar reference is not a valid prior art reference under 35 U.S.C. § 102(b).

For a reference to qualify as a valid prior art under 35 U.S.C. § 102(e), it must be either be "an application for patent, published under section 122(b), by another" or be "a patent granted on an application for patent by another...before the invention by the applicant for patent." According to *In re Land*, "another" means an inventive entity other than applicants. 368 F.2d 866 (CCPA 1966); *see also* MPEP § 2136.04. An inventive

entity is different when "not all of the inventors are the same." MPEP § 2136.04. It is submitted that the inventive entity in the present application is identical to that of the Sarkar reference. Therefore, the inventive entity of the Sarker reference does not qualify as "by another." Accordingly, the Sarkar reference should not qualify as valid prior art under 35 U.S.C. § 102(e).

Similarly, for a reference to qualify as a valid prior art under 35 U.S.C. § 102(a), the authors of a publication within one year of the filing date of the applicant's filing date must be different than the inventive entity of the application. As stated above, the inventive entity of the Sarkar reference is identical to the inventors of the present application. Therefore, the Sarkar reference is not valid prior art under 35 U.S.C. § 102(a).

In light of the above remarks, the applicants submit that the rejections of the claims are improper and should be withdrawn.

CONCLUSION

Please consider the remarks. The applicants submit that the claims are in condition for allowance. Please contact the undersigned attorney at the address and telephone number noted below with any questions or comments.

Respectfully Submitted,

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